

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Schubart et al.

Serial No.: 09/981,397

Filed: October 16, 2001

Entitled: CELLULAR KINASES INVOLVED IN
CYTOMEGALOVIRUS INFECTION AND
THEIR INHIBITION

ART UNIT: 1648

EXAMINER: Salimi, Ali Reza

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OFFICE OF PETITIONS

Attorney Docket No.: AXM-004.1 US

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

STATUS INQUIRY:

**PETITION UNDER 37 C.F.R. §1.78(a)(6) TO ACCEPT AN
UNINTENTIONALLY DELAYED CLAIM TO PRIORITY UNDER 35 U.S.C. §119(e)**

Sir:

On August 25, 2003 Applicants submitted a petition to accept an unintentionally delayed claim to priority pursuant to 37 C.F.R. §1.78(a)(6) concurrent with an amendment requesting amendment of the above-referenced specification to include the claim to priority to the prior-filed provisional applications as required by 37 C.F.R. §1.78(a)(5)(i) and 35 U.S.C. §119(e). A copy of the petition as filed is attached.

As of January 31, 2004, Applicants have yet to receive any word on their petition. Applicants respectfully request an update on the status of their petition.

Respectfully submitted,

Leon R. Yankwich (Reg. No. 30,237)

Michael R. Wesolowski (Reg. No. 50,944)

Attorneys for Applicants

YANKWICH & ASSOCIATES

201 Broadway

Cambridge, Massachusetts 02139

telephone: (617) 374-3700

telefax: (617) 374-0055

Case No. AXM-004.1 US 16
Serial No. 09/981,397, filed October 19, 2001
Applicant Schubart et al.

Return of this post card, properly stamped, will signify
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☒ an Amendment
☒ other: a Petition to Accept An Unintentionally Dela

☒ fee enclosed \$ 1300.00 (check no. 4707)

filed via Express Mail on August 25, 2003

YANKWICH & ASSOCIATES
201 BROADWAY
CAMBRIDGE, MA 02139

PAY TO THE ORDER OF Director of US Patent & Trademark Office

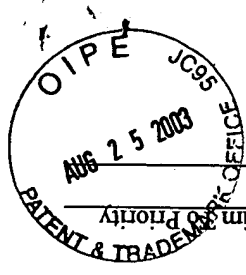
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☒ an Amendment
☐ other: a Petition to Accept An Unintentionally Delayed Claim and Priority

Case No. AXM-004.1 US 16
Serial No. 09/981,397, filed October 19, 2001
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TRANSMITTAL LETTER

Sir:

Transmitted herewith: [X] an Amendment accompanying a Petition under 37 CFR §1.78(a)(6); [X] a check (no. 4707) in the amount of \$1300.00 in payment of the fees under 37 CFR § 1.17(t); [X] a Petition Under 37 C.F.R. §1.78(a)(6) To Accept An Unintentionally Delayed Claim To Priority Under 35 U.S.C. §119(e); and [X] a return-receipt postcard, for filing in the above-captioned patent application.

The commissioner is hereby authorized to charge payment of any additional fees required in connection with the paper(s) transmitted herewith, or to credit any overpayment of same, to Deposit account no. 50-0268. A duplicate of this transmittal letter is submitted herewith.

Respectfully submitted,

Michael Wesolowski

Leon R. Yankwich, Reg. No. 30,237

Michael R. Wesolowski, Reg. No. 50,944

Applicants' Representatives

Yankwich & Associates

201 Broadway

Cambridge, MA 02139

Telephone: (617) 374-3700

Facsimile: (617) 374-0055

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

The undersigned hereby certifies that this correspondence listed above is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR §1.10, postage prepaid, in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Express Mailing Label No.: EV 325775053 US

August 25, 2003
date

Stephanie Leicht
Stephanie Leicht

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AMENDMENT ACCOMPANYING PETITION UNDER 37 C.F.R. §1.78(a)(6)

Sir:

This amendment requests entry of a statement claiming priority to a prior-filed provisional application and is accompanied by a petition submitted pursuant to 37 C.F.R. §1.78(a)(6) requesting acceptance of the unintentionally delayed claim to priority for the above-referenced application.

The present amendments follow the revised format procedure mandated in 68 Fed. Reg. 38611, published June 30, 2003.

AMENDMENTS TO THE SPECIFICATION

(Amendments are illustrated by showing deletions by ~~striketrough~~ and additions by underlining)

1. Below the Title of the Application and before the heading "Specification" on page 1 of the application, please insert the following new paragraph:

--Cross Reference to Related Applications

This application claims priority to United States provisional application serial number 60/240,750, filed October 16, 2000.--

REMARKS

The above-referenced application was filed under 35 U.S.C. §111(a) with the United States Patent & Trademark Office on October 16, 2001 and claimed priority to pending provisional application 60/240,750, filed October 16, 2000.

The application correctly claimed priority to pending provisional application no. 60/240,750 in the combined declaration/power of attorney; however, the specification was inadvertently never amended to contain the statement referencing the prior-filed application as mandated in 37 C.F.R. §1.78(a)(5)(i) and 35 U.S.C. §119(e). Therefore, Applicants submit this amendment and accompanying petition pursuant to 37 C.F.R. §1.78(a)(6) requesting entry of the stated reference claiming priority to the provisional application according to 37 C.F.R. §1.78(a)(5)(i) and 35 U.S.C. §119(e).

Respectfully submitted,



Leon R. Yankwich (Reg. No. 30,237)
Michael R. Wesolowski (Reg. No. 50,944)
Applicants' Representatives
YANKWICH & ASSOCIATES
201 Broadway
Cambridge, Massachusetts 02139
telephone: (617) 374-3700
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**PETITION UNDER 37 C.F.R. §1.78(a)(6) TO ACCEPT AN
UNINTENTIONALLY DELAYED CLAIM TO PRIORITY UNDER 35 U.S.C. §119(e)**

Sir:

This petition is submitted pursuant to 37 C.F.R. §1.78(a)(6) to request acceptance of an unintentionally delayed claim to priority for the above-referenced application, which claims priority to provisional application no. 60/240,750, filed October 16, 2000.

REMARKS

The above-referenced application was filed under 35 U.S.C. §111(a) with the United States Patent & Trademark Office on October 16, 2001 and claimed priority to pending provisional application 60/240,750, filed October 16, 2000.

Pursuant to 37 C.F.R. §1.78(a)(5)(ii), any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number series code and serial number. This reference must be submitted during the pendency of the later-filed application; moreover, if the later-filed application is an application filed under 35 U.S.C. §111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application.

The present application correctly claimed priority pending provisional application 60/240,750, filed October 16, 2000, in the combined declaration/power of attorney (copy attached as Exhibit A); however, the specification was inadvertently never amended to contain the reference set forth in 37 C.F.R. §1.78(a)(5)(i) and 35 U.S.C. §119(e). Applicants' representatives were unaware of this error until pointed out by the Examiner in the Office Action dated July 21, 2003 (copy attached as Exhibit B).

Pursuant to 37 C.F.R. §1.78(a)(6)(iii), Applicants' representatives state that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed, was unintentional. Accordingly, pursuant to 37 C.F.R. §1.78(a)(6)(i), Applicants' representatives submit an Amendment herewith requesting amendment to the specification of the above-referenced U.S. application to include the claim to priority to the prior-filed provisional application.

Additionally, pursuant to 37 C.F.R. §1.78(a)(6)(ii), Applicants submit the surcharge of \$1300.00 (check no. 4707) under 37 C.F.R. §1.17(t).

Applicants respectfully request acceptance and entry of the claim for priority filed concurrently herewith.

Respectfully submitted,



Leon R. Yankwich (Reg. No. 30,237)
Michael R. Wesolowski (Reg. No. 50,944)
Applicants' Representatives
YANKWICH & ASSOCIATES
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Stephanie Leicht